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| 87133 | 7590 | 04/15/2010 | | |
| Dickinson Wright, PLLC 1875 Eye Street, NW Suite 1200 Washington, DC 20006 | | | EXAMINER EBRAHIM, ANEZ C | |
| | | | ART UNIT 2467 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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|------------------------------|------------------------|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/569,780 | RODRIGO, MIGUEL DE VEGA | |
| | Examiner | Art Unit | |
| | ANEZ EBRAHIM | 2467 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 23 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 9-18 have been examined and are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 9,10-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6671256 Xiong et al ((here in after "Xiong"), and further in view of US Patent 6882766 Corbalis et al (here in after "Corbalis").

As per claim 9, Xiong teaches a method for transmitting data packets between a first communications network node (*Fig 2, Box 105, communication node on NET 1*) and a second communications network node (*Fig 2, Box 115, Communication node on NET 2*)of an communications optical network (*Fig 2, Box*), comprising:

reserving a data channel (*Column 9, line 66-67, reserving a data channel in an optical burst switched network*);

transmitting a first data burst having aggregated data packets on the data channel (*Column 6, line 47-48, burst data are transmitted through the data channel 205 as per Fig 2 which is an optical communication network*);

retaining the data channel for a consecutive transmission phase after transmitting the first data (*Fig 2, data channel 205 is created between two nodes Box 105 and Box 115 the channel is retained until terminated*);

transmitting additional data packets between the nodes during the consecutive transmission phase (*Column 2, line 37-40, burst data packets are transmitted through the created data channel continuously*);

Xiong is silent but Corbalis teaches a terminating the connection only when the data channel is at least partially required for transmitting a second data burst (*Column 1, line 54-55, a new connection setup for burst of data between two nodes*) between a third communications network node and a fourth communications network node of new connection (*Column 1, line 56-59, existing connection is terminated for the establishment for a new connection setup*).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the system of Xiong by a terminating the connection only when the data channel is at least partially required for transmitting a second data burst between a third communications network node and a fourth communications network node of new connection, as suggested by Corbalis. This modification would benefit the system of Xiong for high speed data transfer in an optical network there by helping to minimize the cost and reuse of the existing switch fabric .

As per claim 10, Xiong in view of Corbalis teaches method according to claim 9, wherein a request to reserve transmission capacity for the new connection is sent by a reservation-requiring network node via switching devices of the network to an end node (*Xiong, Column 2, line 15-19, reservation request from an electronic ingress edge router to a reservation termination node*), wherein the third node is the reservation-requiring network node, and wherein the

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fourth node is the end node (Xiong, *Fig 2, Box 105 is requesting node and Box 115 is a end node which receives the request*).

As per claim 11, Xiong in view of Corbalis teaches method according to claim 10, wherein transmission capacity for the new connection is only reserved during the consecutive transmission phase (*Xiong, Column 2, line 16-19, a data channel along the optical path in optical burst network is reserved for transmission of burst traffic*).

As per claim 14, Xiong in view of Corbalis teaches method according to claim 10, wherein transmission capacity is reserved according to a two-way reservation optical burst switching principle via a request and an acknowledgement (*Xiong, Column 8, line 22-25, signaling processor may be required to send back an acknowledgement when it receives an DCR-Request to reserve a data channel*).

4. Claims 12-13 and 18 are rejected under 35 U.S.C. 103(a) as being un patentable over Xiong, Corbalis as applied to claim 10 above and further in view of US Patent 6167042 to Garland et al (here in after "Garland").

As per claim 12, the combination of Xiong and Corbalis teaches a method as claimed in claim 10. The combination does not teach but Garland teaches a method, wherein a disconnect signal is transmitted via the switching devices present in the devices present in the first connection to the first node (*Garland , Column 5, line 47-50, disconnect signal is sent through the switch goes to the customer premise equipment*).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the combination of system of Xiong and Corbalis by wherein a disconnect signal is transmitted via the switching devices present in the devices present in the first connection to the first node, as suggested by Garland This modification would benefit the system of Xiong for better connection management in a switch fabric.

As per claim 13, the combination of Xiong and Corbalis teaches a method as claimed in claim 11. The combination of Xiong and Corbalis does not teach but Garland teaches a method, wherein a disconnect signal is transmitted via the switching devices present in the devices present in the first connection to the first node (*Garland, Column 5, line 47-50, disconnect signal is sent through the switch goes to the customer premise equipment*).

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Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the combination of system of Xiong and Corbalis by wherein a disconnect signal is transmitted via the switching devices present in the devices present in the first connection to the first node, as suggested by Garland. This modification would benefit the system of Xiong for better connection management and resource sharing in a switch fabric.

As per claim 18, Xiong in view of Corbalis and Garland teaches a method as claimed in claim 12, wherein a disconnect signal is only sent when an acknowledgement is issued by the end node receiving a request to reserve the transmission capacity (*Xiong, Column 10, line 5-9, a data channel reservation acknowledgement is transmitted from the reservation termination node which can be used to send a disconnect signal*).

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being un patentable over Xiong, Corbalis as applied to claim 14 above and further in view of US PG Publication US 20030007219 A1 Stilling (here in after "Stilling").

As per claim 15, the combination of Xiong and Corbalis teaches a method as claimed in claim 14. The combination does not teach but Stilling teaches wherein the transmission capacity is reserved for bidirectional connections (*Stilling, Para[0009], the significant advantage of the optical*

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transmission system according to the present invention is that, for setting up a bidirectional connection path).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the combination of system of Xiong and Corbalis by wherein the transmission capacity is reserved for bidirectional connections, as suggested by Stilling. This modification would benefit the combination of system of Xiong and Corbalis for high speed data network assignment of the wavelengths for the forward and backward directions, as a result of which a rapid and simple connection setup can be carried out via the bidirectional connection path.

5. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xiong, Corbalis and Stilling as applied to claim 15 above and further in view of US Patent 6167042 to Garland.

As per claim 16, the combination of Xiong, Corbalis and Stilling teaches a method as claimed in claim 15. The combination does not teach but Garland teaches

wherein to reserve the transmission capacity, the disconnect signal is sent to the first and second nodes (*Garland, Column 7, line 28-35, switch sends disconnect signal to both customer premise equipment*).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the combination of system of Xiong, Corbalis and Stilling by wherein the transmission capacity is reserved for bidirectional connections, as suggested by Garland. This modification would benefit the system of Xiong for better connection management and resource sharing in a switch fabric.

As per claim 17, Xiong in view of Corbalis, Stilling and Garland teaches a method according to claim 16, wherein a disconnect signal is only sent when an acknowledgement is issued by the end node receiving the request to reserve the transmission capacity (*Xiong, Column 10, line 5-9, a data channel reservation acknowledgement is transmitted from the reservation termination node which can be used to send a disconnect signal*).

Response to Arguments

On page 4 of Applicants Response, with regards to claim 9 applicant argues: "Xiong fails to disclose a termination of a connection caused by another reservation during the consecutive transmission phase while data packets are transmitted on-the-fly". Applicant's arguments filed regarding the claim 9 have been fully considered but they are not persuasive. Applicant doesn't explicitly

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claim the above mentioned limitation in claim 9, applicant removed the above mentioned limitation from the claim 9. On page 5 of applicants argument applicant argues that "Corbalis does not disclose that data packets are transmitted on-the-fly. Applicant doesn't explicitly claim the above mentioned limitation in claim 9. On page 5 applicant argues that "Therefore the combination of Xiong and Corbalis, either alone or in combination, does not disclose a burst switching system where a connection is reserved when a burst is transmitted and only terminated when data packets are transmitted on-the-fly". Applicant's arguments filed regarding the claim 9 have been fully considered but they are not persuasive. Primary reference Xiong discloses about a reserving a data channel in optical burst-switched network (Xiong, Abstract) and applicant removed the limitation "packets are transmitted on-the-fly" from claim set. On page 6 applicants argues that Kozaki doesn't teach "transmitting additional non-aggregated data packets on-the-fly between the nodes during the consecutive transmission phase". Applicant's arguments filed regarding the claim 9 have been fully considered but they are not persuasive. Applicant doesn't explicitly claim the above mentioned limitation in claim 9, applicant removed the above mentioned limitation from the claim 9

Response to Amendment

Applicant has not filed his amendment in accordance with the MPEP. The amendments to claims are non-responsive because it didn't indicate any changes or non-changes to claims submitted on 9/22/2009.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

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7. Prior arts made of record, not relied upon: US Patent US 6898205 B1; US Patent US 7050718 B2; US Patent US 7263289 B2, US Patent Publication US 20030128981 A1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANEZ EBRAHIM whose telephone number is (571)270-7153. The examiner can normally be reached on M-F 8 AM to 5 PM If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on (571) 272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ACE/

6/16/2009

/Pankaj Kumar/

Supervisory Patent Examiner, Art Unit 2467